

March 8, 2004

Docket Management Facility  
U.S. Department of Transportation  
400 Seventh Street, N.W.  
Room PL-401  
Washington, DC 20590-001

Docket No. NHTSA 2003-17015  
Nissan North America, Inc. Petition for Exemption from Two-Fleet Rule Affecting  
Compliance with Passenger Car Fuel Economy Standard

We appreciate the opportunity to comment on the above petition. Nissan is seeking exemption from the "two-fleet" rule that pertains to passenger car Corporate Average Fuel Economy (CAFE) standards. Nissan is seeking this treatment because its Mexican produced Sentras, starting with the 2005 model year, will become a part of its domestic fleet for CAFE purposes, leaving its import passenger car fleet below the CAFE standard. This presents Nissan with the dilemma of taking some action to keep the Sentra in its import fleet, moving other vehicles into its import fleet to compensate for the loss of the Sentra, using its CAFE credits/paying CAFE fines, or using other provisions of the CAFE law to address their import fleet deficit. Nissan has chosen here to "use other provisions of the CAFE law" -- by petitioning to combine their import and domestic CAFE fleets together.

The original CAFE program generally provides that each manufacturer's domestic and "import" fleets separately comply with passenger car standards (i.e., manufacturers may not combine their domestic and import fleets in determining CAFE compliance). This "two fleet" provision was enacted to provide an incentive for manufacturers to maintain domestic production of small cars as part of their domestic fleets. At the time, "domestic" content was considered U.S. and Canadian content, but effective with the 2005 model year, Mexican content is also considered "domestic." A domestic vehicle is one with 75 percent or more of its content from these three countries.

In 1980, Congress amended the original 1975 legislation to encourage non-U.S.-headquartered manufacturers to *begin* manufacturing and assembly of passenger cars in the U.S. The House report on the bill (96-1026) spoke of incentives "to new domestic manufacturers to increase the local content of their vehicles..." To date, only Volkswagen, for a short period of time, used the provisions provided in the 1980 legislation.

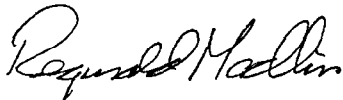
Now, nearly 24 years after the incentive provision was enacted, Nissan, for the first time, desires to avail itself of the flexibility provided by the 1980 amendments. We recognize the employment that Nissan has generated in the U.S. auto industry with the facilities it has built in Tennessee and Mississippi. However, we believe that the petition raises issues of equity and disparate treatment for Nissan -- and potentially a small number of other manufacturers. First, Nissan is not using the 1980 amendments for their original purpose -- beginning production in the U.S. The amendments were intended to encourage plant location in the U.S. and not to provide relief for other problems created by other provisions of the CAFE statute. A provision as important as the two-fleet rule -- which applies to all manufacturers selling passenger cars in the U.S. -- should only be waived for a single company under the narrowest of circumstances, so as not to create yet additional disparate competitive effects of the CAFE program.

Second, Nissan knew this situation was coming and had plenty of time to take other actions to address its current dilemma rather than petitioning for relief under this narrowly intended provision of the statute. In 1996, *after* the enactment of NAFTA, Nissan announced the transfer of production of the Sentra passenger car from Tennessee to Mexico. That decision, in combination with the known domestic content change for Mexican content under NAFTA, results in the current problem. Nissan considers this situation unfair to them, even though Nissan executives knew when they shifted the production to Mexico in 1997 that the NAFTA provision would create this circumstance.

Granting this petition leads to Nissan having a competitive advantage compared to other manufacturers that must manage CAFE compliance with two car fleets. Other manufacturers have to improve vehicles in each fleet to maintain compliance. In addition, these manufacturers incur the administrative cost of maintaining two fleets. In contrast, Nissan would receive the advantages of a combined fleet, which means that it might not have to make any improvements because it can average its fuel economy across a combined fleet, and that it can select the most cost effective actions to maintain compliance without the constraint of two fleets. Therefore, Nissan could improve its CAFE at a lesser cost than other manufacturers.

We appreciate the difficulty the agency has in evaluating whether to grant or deny the petition, given that the statutory provision is still extant, even though its use here stretches the amendments' original intent. As a result, we urge NHTSA to deliberate carefully before reaching a decision on this issue.

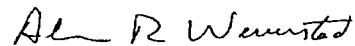
Respectfully yours,



Reginald R. Modlin  
Director,  
Energy and Environmental  
Planning  
DaimlerChrysler Corporation



Robert D. Brown  
Assistant Director,  
Vehicle Environmental  
Engineering  
Ford Motor Company



Alan R. Weverstad  
Executive Director,  
Environmental and Energy  
General Motors Corporation